

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

UNITED STATES OF AMERICA

v.

KILMAR ARMANDO ABREGO GARCIA,

Defendant.

No. 3:25-cr-115

Judge Barbara D. Holmes

**MOTION TO DELAY ISSUANCE OF ORDER OF RELEASE DUE
TO THE GOVERNMENT’S CONTRADICTORY STATEMENTS**

In Kilmar Armando Abrego Garcia's supplemental submission filed yesterday, counsel advised the Court that, in light of the government's claims that it lacked control over Mr. Abrego's whereabouts, counsel in his civil action in the District of Maryland had moved for an order that Mr. Abrego be transported back to his home in Maryland following his impending release from custody in this District. *See* ECF 60 at 1 n.3. Yesterday, at an emergency hearing before Judge Xinis in the District of Maryland, the government represented that it intends to detain Mr. Abrego and remove him to a "third country" as soon as this Court releases Mr. Abrego from pretrial custody. This is the first time the government has represented, to anyone, that it intended not to deport Mr. Abrego back to El Salvador following a trial on these charges, but to deport him to a third country immediately.¹ Judge Xinis set a further hearing on that motion on July 7. Hours later, the DOJ told the Associated Press the exact opposite: that it intends to try Mr. Abrego in this District before removing him to a third country.² Because DOJ has made directly contradictory statements on this issue in the last 18 hours, and because we cannot put any faith in any representation made on this issue by the DOJ, we respectfully request to delay the issuance of the release order until the July 16 hearing on the government's motion for revocation. A short delay

¹ *Attorney General Bondi News Conference*, C-SPAN (June 6, 2025) [hereinafter Bondi News Conference], <https://www.c-span.org/program/news-conference/attorney-general-bondi-news-conference/660932> (Bondi: "Upon completion of his sentence, we anticipate he will be returned to his home country of El Salvador."); @StephenM, X (June 6, 2025), <https://x.com/StephenM/status/1931088587275010228> (Miller: "He is now being prosecuted. After a lengthy prison sentence, it is back home to El Salvador."); @StephenM, X (June 6, 2025), <https://x.com/StephenM/status/1931098844529561723> (Miller: "He will be tried, jailed, and then deported again to El Salvador.").

² Ben Finley, *Justice Department Says Kilmar Abrego Garcia Will Face US Trial Before Any Move to Deport Him Again*, AP News (June 26, 2025), <https://apnews.com/article/kilmar-abrego-garcia-maryland-tennessee-charges-deportation-c96844906793b35a80f9bbb4afa07e94>. The White House, for its part, called the statement from a Justice Department lawyer at the hearing in the District of Maryland "fake news." @ATJackson47, X (June 26, 2025), <https://x.com/ATJackson47/status/1938356246488199506>.

will prevent the government from removing Mr. Abrego and allow time for the government to provide reliable information concerning its intentions.

The irony of this request is not lost on anyone. After illegally removing Mr. Abrego to El Salvador, the government retrieved him, brought him to this District, and indicted him on baseless charges. Mr. Abrego has spent the last two weeks contesting his unlawful detention under the Bail Reform Act. *See* ECF 29, 49. In a just world, he would not seek to prolong his detention further. And yet the government—a government that has, at all levels, told the American people that it is bringing Mr. Abrego back home to the United States to face “American justice”³—apparently has little interest in actually bringing this case to trial. Instead, it has chosen to bring Mr. Abrego back only to convict him in the court of public opinion, including with respect to allegations found nowhere in the actual charges, while boldly announcing that Mr. Abrego “will not walk free in our country again.”⁴ The government has done so while allowing a cooperator with two felony convictions and five prior deportations to be released from a 30-month sentence for human

³ Bondi News Conference, *supra* note 1 (Bondi: “This is what American justice looks like.”); *Kilmar Abrego Garcia was Indicted on ‘Very Serious’ Charges, US Deputy Attorney General Says*, Fox News (June 6, 2025), <https://www.foxnews.com/video/6373969491112> (Blanche: “[H]e’s not returned for any other reason than to face justice. Period.”); @StephenM, X (June 6, 2025), <https://x.com/StephenM/status/1931084045472899423> (Miller: “JUSTICE WILL BE SERVED.”); @Sec_Noem, X (June 6, 2025), https://x.com/Sec_Noem/status/1931088689842782559 (Noem: “Justice awaits this Salvadoran man.”); @PressSec, X (June 6, 2025), <https://x.com/PressSec/status/1931083870130040952> (Leavitt: “Abrego Garcia will now return to the United States to answer for his crimes and meet the full force of American justice.”); @TriciaOhio, X (June 6, 2025), <https://x.com/TriciaOhio/status/1931085864521679280> (McLaughlin: “Justice awaits this Salvadoran man.”); @RapidResponse47, X (June 6, 2025), <https://x.com/RapidResponse47/status/1931092941402993150> (White House: “He’s an illegal from El Salvador and he’s coming back here to face justice”); *Acting ICE Director Blasts Los Angeles Mayor over ICE Raid Resistance*, Fox News (June 7, 2025), <https://www.foxnews.com/video/6373996743112> (Lyons: “You know, Secretary Noem has said from the beginning that this man is a criminal, he’s an MS-13 gang member, and we were going to seek justice and do that investigation. So now he’s back in the United States and he will face justice.”).

⁴ Finley, *supra* note 2.

smuggling to a halfway house, in order to build up a sham of a criminal case against Mr. Abrego. And when Mr. Abrego revealed the weaknesses in that case—securing the pretrial release to which he is entitled—the government threatened to remove him to a third country.

CONCLUSION

Given these unique and unforeseen circumstances, Mr. Abrego respectfully requests a short delay of the issuance of the release order until July 16.

Dated: June 27, 2025
New York, New York

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2025, I electronically filed the foregoing document with the clerk of the court by using the CM/ECF system, which will send a notice of Electronic Filing to the following: Acting United States Attorney, Robert E. McGuire, 719 Church Street, Suite 3300, Nashville, Tennessee 37203.

/s/ Sean Hecker